

S. 596,
Case

Purpose: Require that international agreements other than treaties be transmitted to the Congress or to the foreign affairs committees if public disclosure would be prejudicial to national security.

Problem: Would "intelligence agreements" fall within the purview of the legislation? (See 12 March 1971 memorandum and file for details.)

Comment: The key issue is the extent to which executive agreements are within the constitutional province of the President as the sole organ responsible for the prosecution of foreign affairs. So far intelligence arrangements have not been treated as "international agreements" subject to current law publications requirements (1 U.S.C. 112a and Article 102, U.N. Charter). The term "international agreement" is not defined. Ultimately the Executive will be required to take a stand on this issue on the grounds of Executive privilege.

Action: 11 February Chairman Fulbright requested State to provide coordinated Executive Branch comments on the bill (see file for details of LRH/LLM meeting with State and DOD). LLM spoke to Ralph Burr, OMB, on 19 April 1971 on departmental reports on S. 596 and indicated that while we did not want to get out in front on the issue, we do have serious problems with State's suggestion that intelligence agreements might be made available to the Senate Foreign Relations Committee and we would prefer the more explicit objection on constitutional grounds which we understood will be in Defense's proposed report (DOD's report is based on a LRH draft). Burr said that National Security Council had also submitted views but on checking with Frank Chapin we were informed that they are in the nature of marginal notes on State's proposed report. Burr assured LLM that the report forwarded to Fulbright would oppose the bill. Burr said departmental report still on his desk (21 May).

Status: Inactive (Senate Foreign Relations). Departmental reports - unknown.